

Adopt Article 3, Chapter 9, Division 3, Title 13, California Code of Regulations, to read as follows:

Chapter 9. Off-Road Vehicles and Engines Pollution Control Devices

Article 3. Off-Highway Recreational Vehicles and Engines

§ 2416. Applicability.

(a)(1) This article applies to all new off-highway recreational vehicles produced on or after model year 2018, for sale, lease, use, and introduction into commerce in California (see note below).

(2) New off-highway recreational vehicles, subject to any of the standards set forth in Article 3, shall be certified for use and sale by the Air Resources Board and covered by an Executive Order of Certification, pursuant to Section 2419.5 of this Article.

(b) Each part of this article is severable, and in the event that any part of this chapter or article is held to be invalid, the remainder of this article continues in full force and effect.

(c) This article includes provisions for certification, labeling requirements, emission standard enforcement, recall, and use restrictions.

Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. s 7543(e)(2), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2417. Definitions.

(a) The definitions in Section 1900(b), Chapter 1, Division 3, Title 13, California Code of Regulations, apply with the following additions as defined on {adoption date}:

- (1) "Abuse" as defined in Cal. Code Regs., tit.13, § 2441(a).
- (2) "All-Terrain Vehicle (ATV)" as defined in Cal. Code Regs., tit.13, § 2411(a).

- (3) “Compression-Ignition Engine” as defined in Cal. Code Regs., tit.13, § 2421(a).
- (4) “Conventional Tool” is any of the following: a blade or Phillips screwdriver, open-end or box wrench, adjustable wrench, standard hexagonal socket, hands, pliers, or Torx bit.
- (5) “Diurnal Emissions” means evaporative emissions resulting from the daily cycling of ambient temperatures and include resting losses, and permeation emissions, as measured according to test procedures incorporated in this Article.
- (6) “Emission Control System” as defined in Cal. Code Regs., tit.13, § 2411(a).
- (7) “End of the Assembly-Line” as defined in Cal. Code Regs., tit.13, § 2411(a).
- (8) “Engine family” as defined in Cal. Code Regs., tit.13, § 2441(a).
- (9) “Evaporative Emissions” as defined in Cal. Code Regs., tit.13, § 2752(a).
- (10) “Evaporative Family” as defined in Cal. Code Regs., tit.13, § 2752(a).
- (11) “Executive Order of Certification” or as defined in Cal. Code Regs., tit.13, § 2752(a).
- (12) “Fuel Injection” is defined as any mechanical or electrical fuel system in which pressurized fuel is sprayed or injected, only when the engine is starting or running, into the intake system of an internal combustion engine.
- (13) “Golf Cart” as defined in Cal. Code Regs., tit.13, § 2411(a).
- (14) “Manufacturer” as defined in Cal. Code Regs., tit.13, § 2411(a).
- (15) “Nominal Capacity” as defined in Cal. Code Regs., tit. 13, § 2752(a).
- (16) “Nonconformity” or “Noncompliance” as defined in Cal. Code Regs., tit.13, § 2112(h).

**-DRAFT-
4/18/2013**

- (17) “Off-Highway Recreational Vehicle (OHRV)” means any vehicle powered by an off-highway recreational vehicle engine.
- (18) “Off-Highway Recreational Vehicle (OHRV) Certification Value” means the evaporative emissions level reported by the manufacturer in the application for an Executive Order of Certification.
- (19) “Off-Highway Recreational Vehicle Engines ” or “Engines” as defined in Cal. Code Regs., tit. 13,§ 2411(a).
- (20) “Off-Road Motorcycle” as defined in Cal. Code Regs., tit. 13, § 2411(a).
- (21) “Owner” as defined in Cal. Code Regs., tit.13, § 2180.1(a).
- (22) “Permeation emissions” or “Permeation” means evaporative emissions that result from reactive organic gas molecules penetrating through the walls of fuel system components and evaporating on outside surfaces, as measured by test procedures incorporated in this Article. Permeation emissions are a component of diurnal emissions, as measured by test procedures incorporated in this Article.
- (23) “Scheduled Maintenance” as defined in Cal. Code Regs., tit.13, § 2411(a).
- (24) “SHED” as defined in Cal. Code Regs., tit.13, § 2752(a).
- (25) “Small Volume Off-Highway Recreational Vehicle (OHRV) Manufacturer” means any vehicle manufacturer with a three-year average California sales less than or equal to 50 new off-highway recreational vehicles per model year in California for all categories of OHRV combined.
- (26) “Tampering” means removing, modifying, or disconnecting emissions-related parts, or, as it applies to emission control labels, in a manner that voids equipment certification.
- (27) “Total Organic Gases” or “TOG” means all gases containing carbon, except carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.
- (28) “Vehicle Identification Number (VIN)” means an alphanumeric code which has been permanently assigned by the manufacturer to a vehicle.

- (29) "Vehicle or Engine Manufacturer" as defined in Cal. Code Regs., tit.13, § 2035(c).
- (30) "Warranty Period" as defined in Cal. Code Regs., tit.13, § 2035(c).
- (31) "Zero Emission Vehicle" or "electric motorcycle" as defined in Cal. Code Regs., tit.13, § 2411(a).
- (32) "TP-901" means "Test Procedure for Determining Permeation Emissions from Small Off-Road Engine Equipment Fuel Tanks", adopted July 26, 2004.
- (33) "TP-933" means "Test Procedure for Determining Evaporative Emissions from Off-Highway Recreational Vehicles", adopted [adoption date]

§ 2418. Evaporative Emission Standards and Test Procedures

(a) This section applies to all off-highway recreational vehicles used in such vehicles produced on or after model year 2018.

(1) The following recreational vehicles are exempted from the requirements of this regulation:

(A) Vehicles certified solely to operate on diesel fuel

(B) Zero emission vehicles; except as described below

(2) In order to generate credits, zero emission vehicles must obtain an Executive Order of Certification, as specified in section 2419.5 (b)(3), but are not required to perform evaporative emissions testing. Zero emission golf carts are not eligible for certification.

(b) For purposes of certification in California, manufacturers must comply with the following evaporative emission standards from new off-highway recreational vehicles that are sold, leased, used, or introduced into commerce in California.

(1) Evaporative emissions from off-highway recreational vehicles may not exceed the following limitations:

(A) Off-highway recreational vehicles are required to meet the applicable performance standards outlined in Table 1 for either the 72 hour diurnal standard or the steady state diurnal standard. All vehicles certified to the performance standards below are presumed to demonstrate compliance with federal permeation standards specified in section 2412 (b)(2).

Table 1

<u>Vehicle and Model Year</u>	<u>Required Tests</u>	<u>72 Hour Diurnal Standard</u> <u>(per test sequence)</u>	<u>Steady State Diurnal Standard</u> <u>(per test sequence)</u>
<u>Off-highway recreational vehicles 2018 and subsequent model years</u>	<u>Diurnal</u>	<u>1 g TOG</u>	<u>1 g TOG</u>
	<u>Fuel System Leakage Tip Test</u>	<u>No visible liquid leakage</u>	

(B) All-Terrain Vehicle Filler Neck Compatibility Standard

Beginning in model year 2018, all-terrain vehicles with fuel tanks that are re-designed to be geometrically different from 2017 and earlier model years, and have a nominal capacity of greater than 3.5 gallons must meet the filler pipe sealing surface requirements of Figure 1 of the International Standards Organization 13331:1995(E). Perpendicularly down from the mating surface there must be a minimum of 120 mm (90 mm for nozzle, 5 mm for bellows compression and 25 mm for extra space fuel flow) to the bottom of the tank.

(2) The standards specified in subsection (b)(1)(A) must be met by at least 75% of the total projected California sales of gasoline fueled off-highway recreational vehicles for model years 2018-2021. Following the phase-in period, 2022 and subsequent model year vehicles must be in 100% compliance.

Model year (MY) phase-in calculation:

$$\underline{[(MY2018+MY2019+MY2020+MY2021)/4 \times 100] \geq 75\%}$$

Example: Percentage of fleet in compliance: 33% in 2018, 67% in 2019, 100% in 2020, 100% in 2021, so that, $[(0.33+0.67+1.0+1.0)/4 \times 100]=75\%$

(c) Small-Volume Manufacturer Evaporative Emission Design Standard

(1) A small volume off-highway recreational vehicle manufacturer must certify vehicles by demonstrating compliance with the evaporative emission standards set out in Table 1 from subsection (b)(1)(A) or can elect to certify to the design-based standards set out in Table 2. Vehicles that certify to the design-based standards are required to perform a tip-test, as specified in sections 4.3 and 6.1 of TP-933.

Table 2

<u>Effective Date Model Year</u>	<u>Fuel Tank Permeation Grams/m²/day</u>	<u>Fuel Hose Permeation Grams/m²/day</u>	<u>Carbon Canister Working Capacity Grams/ liter of nominal fuel tank volume</u>	<u>Fuel Injection</u>
<u>2018 and subsequent model years</u>	<u>1.5 @ 28°C (82°F)⁽¹⁾</u>	<u>5.0 @ 35°C (95°F)</u>	<u>1.0⁽²⁾</u>	<u>Required</u>

⁽¹⁾ Equivalent to federal fuel tank permeation standards specified in section 2412 (b)(2).

⁽²⁾ The carbon canister must be actively purged during engine operation.

(d) The test procedures for determining compliance with the standards in:

(1) subsection (b)(1)(A) are set forth in TP-933, adopted [adoption date], which is incorporated by reference herein.

(2) subsection (c)(1) are set forth in TP-901, adopted July 26, 2004, which is incorporated by reference herein.

(e) Reporting Requirements

(1) During the manufacturer's production year, for each vehicle produced to sell in California, the manufacturer must provide the following information to the Executive Officer within 30 days after the last day in each calendar quarter:

(A) Vehicle identification numbers and an explanation of the identification code if applicable;

(B) Model number and engine size of vehicle;

(C) The total number of wholesale vehicles produced to sell in California and their applicable designated emissions standards.

(2) Production and sale of vehicles that result in non-compliance with the California standard for the model year shall cause a manufacturer to be subject to civil penalties, according to applicable provisions of the Health and Safety Code.

(3) For a period of up to one year following the end of the model year, for each model the manufacturer shall submit California sales data as it becomes available.

(f) Advanced Fuel System Credits

(1) An off-highway recreational vehicle manufacturer is eligible to use a credit system to offset higher emitting evaporative families when certifying to the standards in subsection (b)(1)(A), with the following constraints:

(A) Credits can only be generated based on the diurnal standard certification value or from zero-emission vehicles.

(B) Zero-emission vehicles must be certified in accordance with section 2419.5 (b)(3) to receive credits. No testing will be required.

(C) Zero-emission vehicles shall be awarded credits in the amount of 75% of the diurnal standard.

(D) Credits can only be applied to emissions families of the same model year.

(E) A manufacturer may not sell or trade credits

(F) No evaporative family can emit at over 300% of the certification standard.

(G) The worst case model of vehicle within an evaporative family must be tested. The worst case model is defined as the vehicle expected to generate the highest test emissions.

(H) Results are to be calculated with consistent units and rounded to the nearest tenth of a gram.

(2) A manufacturer is in compliance when they generate enough evaporative emissions credits from over-compliant families to cover all deficits incurred from under-compliant families for each model year.

§ 2419.1 Evaporative Emission Control Labels– New Off-Highway Recreational Vehicles

(a) Purpose. To comply with the applicable emission standards an off-highway recreational vehicles' emissions-critical or emissions-related parts must be maintained. Every certified off-highway recreational vehicle must be affixed with an evaporative emissions label (or labels) to provide proper vehicle identification and maintenance information.

(b) Applicability

(1) All off-highway recreational vehicles, produced on or after model year 2018, for sale, lease, use or introduction into commerce in California, and required to certify by section 2418, must comply with evaporative emission labeling requirements.

(2) All off-highway recreational vehicles subject to exhaust emissions labeling requirements by section 2413 (b), and required to have an evaporative emissions label by subsection (b)(1) above, must have a combined emissions label.

(3) The responsibility for compliance with this section rests with the manufacturer who has been granted certification for vehicles produced to sell in California.

(c) The combined label content and location must adhere to the requirements of section 2413 (c) through (l), which is incorporated by reference herein, with the following modifications:

(1) The label heading described in section 2413(c)(4)(A) shall be replaced with: "Vehicle Emissions Control Information".

(2) Additional flexibility is allowed for section 2413(c)(4)(B), as follows: A manufacturer may request approval to delete its name and trademark, and substitute the name and trademark of another manufacturer, original off-highway recreational vehicle manufacturer, or third-party distributor. Such an approval does not relieve the manufacturer of complying with the requirements imposed by this Article.

(3) Section 2413(c)(4)(C) shall include the evaporative family name.

(4) Section 2413(c)(4)(D) shall be modified to include the identification of the evaporative emission control system.

(5) The statement in section 2413(c)(4)(G) should also include the phrase "certified to evaporative emission standards".

(d) In the case that a vehicle is subject to section 2412 (f), or otherwise exempted from California off-highway recreational vehicle exhaust requirements, a modified evaporative emissions label is required on all compliant vehicles sold in California, as follows:

(1)The label must follow the requirements of subsection (c), in addition to the following modifications:

(A) The label heading described in section 2413(c)(4)(A) shall be replaced with: "Vehicle Evaporative Emission Control Information".

(B) Section 2413(c)(4)(D) shall be modified to replace the "Identification of the Exhaust Emission Control System" with the "Identification of the Evaporative Emission Control System".

(C) Sections 2413(c)(5)(G), 2413(e), 2413(i), and 2413(k) are not required.

(D) The unconditional statement of compliance described in section 2413(c)(4)(G) shall be modified to clarify that the vehicle is compliant with evaporative emission standards. "This (specify off-road motorcycle, all-terrain vehicle, off-road sport vehicle, off-road utility vehicle, sand car, or engine, as applicable) conforms to California evaporative emission regulations applicable to (specify applicable model year) model-year new (specify off-road motorcycles, all-terrain vehicles, off-road sport vehicles, off-road utility vehicles, sand cars, or engines, as applicable).

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43107, Health and Safety Code. Reference: Sections 43013, 43018, 43102, 43104 and 43107, Health and Safety Code.

§ 2419.2 Defects Warranty Requirements for Evaporative Emission Systems of 2018 and Subsequent Model Year Off-Highway Recreational Vehicles.

(a) Applicability

This section shall apply to the evaporative emission systems of model year 2018 and subsequent model year off-highway recreational vehicles certifying to the standards set forth in section 2418. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser.

(b) General Emissions Warranty Coverage

The manufacturer of each off-highway recreational vehicle or engine shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine is:

(1) Designed, built, and equipped so as to conform, at the time of sale, with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship, which cause the failure of a warranted part to be identical in all material respects to that part as described in the vehicle or engine manufacturer's application for certification.

(c) Warranty Period

The warranty period applicable to this section shall be a period of use of 30 months, or 2500 miles, or 250 hours, whichever comes first, except for

evaporative components over \$200 including labor, which are covered for 60 months, or 5000 miles, or 500 hours.

(d) Subject to the conditions and exclusions of subsection (i), the warranty on emissions-related parts shall function as follows:

(1) Any warranted part which is not scheduled for replacement as part of maintenance in the written instructions pursuant to subsection (e) shall be warranted for the warranty period defined in subsection (c). If any such part fails during the warranty period, it shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (d)(4). Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.

(2) Any warranted part which is scheduled only for regular inspection in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (c). A statement in such written instructions to the effect of "repair or replace as necessary" shall not reduce the period of warranty coverage. Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.

(3) Any warranted part which is scheduled for replacement as part of maintenance in the written instructions pursuant to subsection (e) shall be warranted for the period of time prior to the first scheduled replacement point for that part. If the part fails before the first scheduled replacement point, the part shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (d)(4). Any such part repaired or replaced under warranty shall be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner, at a warranty station, except in the case of an emergency when a warranted part or a warranty station is not reasonably available to the vehicle or engine owner. In an emergency, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate.

(5) Notwithstanding the provisions of subsection (d)(4), warranty services or repairs shall be provided at all of a manufacturer's dealership which are franchised to service the subject vehicles.

(6) The vehicle or engine owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure, under warranty, of any warranted part.

(8) Throughout the vehicle or engine's warranty period defined in subsection (c), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an emergency for purposes of subsection (d)(4).

(9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under subsection (d)(7)).

(10) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of an add-on or modified part.

(11) Upon a request of the Executive Officer the vehicle or engine manufacturer must provide, any documents that describe the manufacturer's warranty procedures or policies.

(e) Commencing with the 2018 model year vehicles intended for sale or lease in California, each manufacturer shall furnish with each new vehicle or engine written instructions for the maintenance and use of the vehicle or engine by the owner.

(f) Commencing with 2018 model year vehicles intended for sale or lease in California, each manufacturer shall furnish with each new vehicle or engine a list of the warranted parts installed on that vehicle or engine. The list shall include those parts included on the Air Resources Board "Emissions Warranty Parts List," dated December 14, 1978, as amended on February 22, 1985, and incorporated herein by reference.

(g) Each manufacturer shall submit the documents required by sections (e) and (f), with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the manufacturer's list of warranted parts to ensure that each such list is of proper scope. The Executive Officer may also reject or require modification of any of the documents required by subsection (e). Approval by the Executive Officer of the documents required by subsections (e) and (f), shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (e) and (f), within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may request a review of the Executive Officers' decision by the Board.

(h) Notwithstanding subsection (f), the Executive Officer may delete any part from a manufacturer's list of warranted parts provided in the manufacturer demonstrates to the Executive Officer that:

(1) Failure of such part will not increase the emissions of any vehicle or engine on which it is installed, and

(2) Any deterioration of drivability or performance which results from failure of the part could not be corrected by adjustments or modifications to other vehicle components.

(i) Exclusions

(1) The repair or replacement of any warranted part otherwise eligible for warranty coverage under subsection (d), shall be excluded for such warranty coverage if the vehicle or engine manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

Note: Authority cited: Sections 39600 and 39601, Health and Safety Code.
Reference: Sections 43106, 43204, 43205.5, 44004, 44010, 44011, 44012, 44015, and 44017, Health and Safety Code.

§ 2419.3 Evaporative Emissions Control System Warranty Statement.

(a) A manufacturer shall furnish a copy of the following statement with each new 2018 and subsequent model year vehicles, using those portions of the statement applicable to the vehicle, unless otherwise authorized by the Executive Officer. The warranty statement shall generally describe the obligations and rights of vehicle or engine manufacturers and owners under this article.

CALIFORNIA EMISSION CONTROL WARRANTY STATEMENT

YOUR WARRANTY RIGHTS AND OBLIGATIONS

The California Air Resources Board (and manufacturer's name, optional) is pleased to explain the emission control system warranty on your (year) (off-highway recreational vehicle). In California, new off-highway recreational vehicles must be designated, built and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the emission control system on your (off-highway recreational vehicle) for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your (off-highway recreational vehicle).

Your emission control system may include parts such as the carburetor or fuel-injection system, fuel tank, fuel hoses, carbon canister, and engine computer. Also included may be hoses, belts, connectors and other emission-related assemblies. Where a warrantable condition exists, (manufacturer's name) will repair your (off-highway recreational vehicle) at no cost to you including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE:

[For 2018 and subsequent model year off-highway recreational vehicles.]

For 30 months, or 2500 miles, or 250 hours, whichever comes first, except for evaporative components over \$200 including labor, which are covered for 60 months, or 5000 miles, or 500 hours.

If any emission-related part on your (off-highway recreational vehicle) is defective, the part will be repaired or replaced by (manufacturer's name).

OWNER'S WARRANTY RESPONSIBILITIES:

As the (off-highway recreational vehicle) owner, you are responsible for the performance of the required maintenance listed in your owner's manual. (Manufacturer's name) recommends that you retain all receipts covering maintenance on your (off-highway recreational vehicle), but (manufacturer's name) cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of a scheduled maintenance.

As an owner you are responsible for presenting your (off-highway recreational vehicle) to a (manufacturer's name) dealer as soon as a problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days.

As an (off-highway recreational vehicle) owner, you should also be aware that (manufacturer's name) may deny you warranty coverage if your (off-

highway recreational vehicle) or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen manufacturer's contact) at 1-XXX-XXXX or the California Air Resources Board at 9528 Telstar Avenue, El Monte, CA 91731.

(b) Each manufacturer shall submit the documents required by subsections (a) and (b) with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the documents to the extent the submitted documents do not satisfy the requirements of subsections (a) and (b). Approval by the Executive Officer of the documents required by subsections (a) and (b) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (a) and (b) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

Note: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44014, and 44015, Health and Safety Code.

§ 2419.4. New Off-Highway Recreational Vehicle Engine Evaporative Emission Standards, Enforcement and Recall Provisions, Warranty, Quality Audit, and New Engine Testing.

This section applies to off-highway recreational vehicles produced on or after model year 2018, for sale, lease, use or introduction into commerce in California. Such an Off-highway recreational vehicle is subject to Title 13, California Code of Regulations, Chapter 2, Articles 2.1 through 2.3, and the incorporated Appendix A, "California In-Use Vehicle Emission-Related Recall Procedures, Enforcement Test Procedures, and Failure Reporting Procedures for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, and Motorcycles", which are incorporated by reference herein.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43105, 43107, 43205.5 and 43210, Health and Safety Code. Reference: Sections 43013, 43018, 43105, 43107, 43205.5 and 43210, Health and Safety Code.

§2419.5 Evaporative System Testing and Certification Requirements.

(a) Requirement to Comply with All Other Applicable Codes and Regulations

Certification or approval of any equipment or evaporative emission control system by the Executive Officer does not exempt the equipment or evaporative emission control system from compliance with other applicable codes and regulations such as state and federal safety codes and regulations.

(b) Certification Requirements

(1) For model years beginning in 2018, off-highway recreational vehicle must be tested with the entire emissions control system as a complete vehicle. ARB will grant an Executive Order of Certification to off-highway recreational vehicles that meet applicable performance standards described in section 2418(b)(1)(A), with the following constraints:

- (A) Vehicle testing must be conducted in accordance with section 2418. Measured emissions must be at or below the applicable performance standards listed sections 2418(b)(1)(A).
- (B) Evaporative families that do not meet the standards outlined above must comply by offsetting any shortfall with emissions credits generated the same model year.

(2) In order to facilitate off-highway vehicle design certification, ARB will certify emissions-related parts relating to fuel hoses, fuel tanks, and venting control devices to the evaporative standards in section 2418 (c)(1), as applicable. To obtain an Executive Order of Certification for small volume off-highway recreational vehicles to design-based standards section 2418(c)(1), a manufacturer must:

- (A) Have measured emissions at or below the standards listed sections 2418(c)(1), in accordance with the testing requirements in section 2418(d).
- (B) Complete the installation as directed by the fuel hose, fuel tank, and carbon canister component or other venting component manufacturer and verify adherence to specifications contained within the referenced component Executive Order.
- (C) Submit an application that includes the approved component Executive Order number or compliant emissions data for the emissions-related parts and any test data required for venting control.
- (I) The manufacturer must document all emissions-related parts installed in the off-highway recreational vehicle and record the component Executive Order number or compliant emissions data for each part.

**-DRAFT-
4/18/2013**

(II) In order to obtain a design-based certification the manufacturer must document that all requirements, as outlined in section 2418 (b)(2)(C), have been met.

(III) Submit a design-based certification application to the Mobile Source Operations Division Chief, Air Resources Board, electronically as specified by the MSOD Chief. Upon submission of a design-based certification application, the application will be reviewed and if all information is found to be true, accurate, and complete, an Executive Order will be issued within 90 days. Once the Executive Order has been issued the off-highway recreational vehicle may be intended for sale or lease in California.

(IV) Component Executive Orders can be obtained by following the procedures outlined in section 2767.1, Article 1, Chapter 15, Division 3, Title 13, California Code of Regulations, replacing all references to "section 2754" with "section 2418(c)(1)", incorporated by reference herein.

(V) If the Executive Officer determines that a part for which an "approval" has been granted no longer meets the applicable performance standards, the Executive Officer may deny, suspend or revoke the component Executive Order following provisions in this Article.

(3) To obtain an Executive Order of Certification for zero emissions vehicles, for purposes defined in Section 2418(a)(2), a manufacturer must file an application of certification and comply with the administrative requirements in subsection (c)(1). Zero emission vehicles are not required to perform evaporative emission testing, described in section 2418 (b) and (c).

(4) An off-highway recreational vehicle manufacturer may use credits to obtain an Executive Order of Certification to sell off-highway recreational vehicles under section 2418 (f), with the following constraints:

(A) Manufacturers certifying evaporative families using credits must submit calculations detailing their annual production plans and certification test results including:

(I) Projected eligible sales

(II) Individual test results

(III) Final eligible sales as defined in subsection (b)(4)(C)

(IV) Actual sales volume

(B) The manufacturer bears the burden of establishing, to the satisfaction of the Executive Officer, that the conditions upon which the Executive Order of Certification was issued were satisfied.

(C) Evaporative family certification based on credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps considered appropriate by the Executive Officer.

(D) If any evaporative family is found to exceed the OHRV certification value all vehicles sold under that Executive Order of Certification will be considered non-compliant with this regulation.

(c) Administrative Requirements

(1) Maintenance of records

(A) The manufacturer shall establish, maintain, and retain the following organized and indexed records for each evaporative family:

(I) ARB evaporative family identification code,

(II) Projected sales volume for the model year, and

(III) Certification test results

(B) Records appropriate to establish the quantities of vehicles that constitute eligible sales for each evaporative family.

(C) The manufacturer shall retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy, CD-ROM, diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(D) Nothing in this section limits the Executive Officer's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(E) A manufacturer shall submit all information requested by the Executive Officer within 30 days of the date of such request.

(F) The Executive Officer may revoke or suspend the Executive Order of Certification for an evaporative family for which the manufacturer fails to retain the records required in this section or to provide such information to the Executive Officer upon request. No new Executive Orders of

Certification will be issued to the manufacturer until the requested records are made available and/or a plan that describes the records to be retained as required by this section is approved by the Executive Officer.

(2) Final report

(A) All manufacturers that certify vehicles to subsection (b)(4) must generate a final report that includes the evaporative family, the vehicle sales volume, and the OHRV certification values used in calculating credit balances. The report must include a calculation to show that the average certification value of vehicles certified using credits, is below the standards in section 2418(b)(1)(A).

(B) The calculation of eligible sales is defined as shipments to distributors of products intended for sale or lease in California.

(C) Unless otherwise approved by the Executive Officer, final reports must be submitted within 90 days of the end of the model year to: *Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar Avenue, El Monte, CA 91731.*

(D) Failure by a manufacturer to submit any final reports in the specified time for any vehicle subject to regulation under this section is a violation.

(d) Evaporative Testing Requirements

(1) Compliance Test Procedures

(A) The Executive Officer may, with respect to any new off-highway recreational vehicle evaporative family being sold, offered for sale, or manufactured for sale in California, order an off-highway recreational vehicle manufacturer or evaporative system builder to make available for compliance testing and/or inspection a reasonable number of off-highway recreational vehicles. Unless otherwise directed by the Executive Office, the off-highway recreational vehicle(s) shall be delivered to: *Haagen-Smit Laboratory Air Resources Board, 9528 Telstar Avenue, El Monte, CA 91731.* The off-highway recreational vehicle must be selected at random from sources specified by the Executive Officer according to a method approved by the Executive Officer which, insofar as practical, must exclude an off-highway recreational vehicle that would result in an unreasonable disruption of the manufacturer's distribution system.

(B) Air Resources Board personnel shall have access to off-highway recreational vehicle assembly plants, or distribution facilities for the purposes of off-highway recreational vehicle selection and testing.

Scheduling of access shall be arranged with the representative designated in the application for certification.

(C) All testing must be conducted in accordance with the applicable model year evaporative emission test procedures. Any evaporative emission control system parameters must be set to values or positions that are within the range available to the ultimate purchaser as determined by ARB. No break-in or modifications, adjustments, or special preparation or maintenance will be allowed on off-highway recreational vehicles chosen for compliance testing without the written consent of the Executive Officer. If the Executive Officer consents to break-in or modifications, adjustments, or special preparation or maintenance, they will be performed by the off-highway recreational vehicle manufacturer under the supervision of ARB personnel.

(D) Correction of damage or maladjustment that may reasonably be found to have resulted from shipment of the off-highway recreational vehicle is permitted only after an initial test of the off-highway recreational vehicle, unless the damage prevents the test to be completed safely. The off-highway recreational vehicle manufacturer may request that the off-highway recreational vehicle be repaired from shipping damage. If the Executive Officer concurs, the off-highway recreational vehicle may be retested, and the original test results may be replaced by the after-repair test results.

(E) The off-highway recreational vehicle(s) must be randomly chosen from the selected evaporative families according to the criteria specified herein. The off-highway recreational vehicle must be representative of the off-highway recreational vehicle manufacturer's California sales. The off-highway recreational vehicle will be selected from the end of the assembly-line. The selected off-highway recreational vehicle must pass a visual inspection test, to verify the equipped has the appropriate emission control systems as documented in the approved Executive Order of Certification for the evaporative family.

(F) Off-highway recreational vehicles scheduled for compliance testing shall be selected, tested, and evaluated in accordance with TP-933, adopted [adoption date]. The evaporative family will be deemed to have failed the compliance testing if the test result is above the OHRV certification value.

(G) If the off-highway recreational vehicle selected for inspection fails an evaporative emission test as determined by subsection (b), or fails to conform to the labeling requirements of section 2419.1, the Executive Officer shall notify the manufacturer in accordance with subsection (d)(2).

(2) Notification of Failure

If compliance testing identifies vehicles that do not meet the evaporative emission standards set out in section 2418, or that do not conform to the certification requirements in subsection (b), the Executive Officer will notify the vehicle manufacturer covering the vehicles. The Executive Officer shall also notify the vehicle manufacturer that the Executive Order of Certification may be suspended or revoked. The vehicle manufacturer shall have 30 calendar days in which to notify the Executive Officer of their intent to provide additional information and/or independent test results for five tanks, engines, or equipment that document compliance of the evaporative family. The Executive Officer will consider all relevant information provided by the manufacturer, and other interested parties, including, but not limited to corrective actions applied to the noncompliant evaporative family.

(e) Suspension and Revocation of Executive Orders of Certification

(1) The Executive Officer shall not revoke or suspend the Executive Order of Certification, without considering any information provided by the vehicle manufacturer of such certification pursuant to subsection (b).

(2) If the results of the compliance testing indicate that the failed off-highway recreational vehicle of a particular evaporative family are produced at one plant, the Executive Officer may elect to suspend the Executive Order of Certification with respect to the off-highway recreational vehicles manufactured at that plant only.

(3) Notwithstanding the foregoing, the Executive Officer may suspend a vehicle or component Executive Order of Certification, in whole or in part, effective upon written notice to the vehicle manufacturer if the Executive Officer finds that:

(A) the vehicle manufacturer has refused to comply with any of the requirements of this section; or

(B) the vehicle manufacturer has submitted false or incomplete information in any report or information provided to the Executive Officer under this section; or

(C) the vehicle manufacturer has rendered inaccurate any test data submitted under this section; or

(D) ARB personnel have been denied the opportunity to conduct activities authorized under this section by the vehicle manufacturer.

(4) The Executive Officer may revoke an Executive Order of Certification for an evaporative family after the Executive Order of Certification has been suspended pursuant to subsection (e)(1) or (e)(2) of this section if the

proposed remedy for the nonconformity, as reported by the vehicle manufacturer to the Executive Officer, is one requiring a design change or changes to the evaporative emission control system as described in the application for certification of the affected evaporative family.

(5) Once an Executive Order of Certification for a failed evaporative family has been suspended pursuant to subsection (e)(1), (e)(2) or (e)(3) of this section, the vehicle manufacturer must take the following actions before the Executive Officer will consider reinstating the Executive Order of Certification:

(A) submit a written report to the Executive Officer that identifies the reason for the noncompliance of the off-highway recreational vehicle, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the vehicle manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

(B) demonstrate that the evaporative family for which the Executive Order of Certification has been suspended does in fact comply with the regulations of this part by testing an off-highway recreational vehicle. The results must meet the criteria required for certification in subsection (b). Such testing must comply with the provisions of this section.

(6) Once the Executive Order of Certification has been revoked for an evaporative family, if the vehicle manufacturer desires to continue introduction into commerce of a modified version of that evaporative family, then the vehicle manufacturer must:

After implementing the change or changes intended to remedy the nonconformity, demonstrate that the modified evaporative family does in fact conform to the applicable standards of this Article by having five off-highway recreational vehicles from the modified evaporative family tested following TP-933, unless such testing is waived by the Executive Officer.

(f) Tampering/Tamper resistance

(1) Manufacturers must design off-highway recreational vehicle evaporative emissions control systems in such a way that they are resistant to tampering or removal.

(A) Any canister used to capture evaporative emissions from an off-road motorcycle must be mounted so it does not protrude from the vehicle such that it is prone to damage in a tip over.

(B) If the canister installed on an off-road motorcycle is outside what would

otherwise be the cross-sectional profile of the vehicle, or if the canister installed on an off-highway recreational vehicle, except off-road motorcycles, is visible to someone standing next to the vehicle when the vehicle is completely assembled, then the canister must be mounted such that non-conventional tools are required to remove it and the vapor line connections to the canister. Otherwise, fasteners requiring conventional tools may be used.

(2) The evaporative system must be designed in such a way that tampering/disassembling is not needed to conduct normal functions. Normal functions include routine maintenance and refueling of the off-highway recreational vehicle.

(4) Vehicle owners are responsible for confirming all add-on or modified parts installed on vehicles are compliant with emission standards.

(A) Manufacturers must publish the following statement in the owner's manual to inform vehicle owners of California regulations that prohibit tampering with emission control systems: "An Add-on or modified part must be compliant with applicable CARB emission control standards. A violation of this requirement is punishable by civil and/or criminal punishment."

(5) Manufacturers must include a vehicle tampering statement for all new off-highway recreational vehicles certified to a standard set out in this Article informing vehicle owners of laws that prohibit tampering. This may be accomplished by attaching a tag to the vehicle or the front cover of the owner's manual.

(A) The vehicle tampering statement text must be printed in the English language, and use block letters and numerals, which shall be of a color that contrasts with the background.

(B) The vehicle tampering statement text must be large enough to be clearly legible.

(C) The vehicle tampering statement shall include a warning statement that reads "The removal or modification of emission-related parts on this off-highway recreational vehicle is illegal. Violators may be subject to civil and/or criminal penalties as provided under California and federal law."

(D) If a removable tag is used the vehicle tampering statement must be fastened in a way that it is destroyed upon removal. The tag must also include an additional statement that reads "This tag may not be removed under penalty of law except by the vehicle owner"

(6) Any tampering, removal or modifications of the evaporative emissions control system is prohibited under part 1068.101(b)(1), Title 40, Code of Federal Regulations.

(A) Peace officers are given the authority to enforce illegal vehicle tampering by section 27156 of the California Vehicle Code.

(B) Section 27156 of the California Vehicle Code prohibits the installation of any add-on or modified emission-related part on any pollution-controlled off-highway recreational vehicle, unless the part has been exempted by ARB. ARB exempts an off-road motorcycle part from the prohibition of VC 27156 if the part is found to do either of the following: 1) not reduce the effectiveness of any required emission control device on the off-road motorcycle or 2) demonstrate that the applicable emission standards are being met when the part(s) are installed on the off-road motorcycle. Sale or installation of any aftermarket part or parts, which could potentially affect the evaporative system, in California without an ARB approved Anti-Tampering Exemption is prohibited as stated in sections 2470 – 2476, Article 7, Chapter 9, Division 3, Title 13 of the California Code of Regulations.

(g) Inspection

The Executive Officer, or an authorized representative of the Executive Officer, may periodically inspect any facility which manufactures off-highway recreational vehicles, manufactures engines, or manufactures evaporative emission control components, technology, or systems subject to this Article as deemed necessary to ensure compliance with these regulations. Failure of a manufacturer, distributor, retailer or other person subject to this Article to allow access for inspection purposes may be grounds for suspension or revocation of an Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601, and 43013 Health and Safety Code. Reference: Section Health and Safety Code 43013. §17 CCR 2474 . Section 27156 Vehicle Code